

2624



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

: Bello, et al.

FOR

: SMART FRONT END FOR A
PRINT COMMUNICATION
PROTOCOL

SERIAL NO.

: 09/675,068

FILED

: September 28, 2000

EXAMINER

: King Y Poon

ART UNIT

: 2624

CONFIRMATION NO.

: 2843

ATTORNEY DOCKET NO.

: A0601-US-NP
XERZ 2 00375

**ELECTION AND RESPONSE TO RESTRICTION REQUIREMENT
UNDER 35 U.S.C. § 121**

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Office Action issued in connection with the above-captioned application and dated May 20, 2005 has been received and carefully reviewed. The following response is provided.

CERTIFICATE OF MAILING

I hereby certify that this Election and Response to Restriction Requirement Under 35 U.S.C. § 121 in connection with Application Serial No. 09/675,068 is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date

June 20, 2005

Iris E. Weber

Iris E. Weber

Restriction Under 35 U.S.C. § 121

The Examiner asserts in the Office Action that the present application includes the following patentably distinct species of the claimed invention:

Species 1 embodiment disclosed in specification, page 2, lines 9-14; and

Species 2 another embodiment disclosed on page 2, lines 15-28, page 3, lines 1-2.

Election

In response to the requirement to elect a single species, as set forth in the Office Action, Applicant hereby elects with traverse Species 2.

Traverse

Applicants respectfully submit that the requirement to elect a species is inappropriate.

First, Applicants note that they have already received a prior Office Action on the merits in this case, and all the claims were examined together. There was no election requirement previously made nor were any distinct species identified. Clearly, all the claims can be, and should be, examined together. To require the election at this time in the prosecution is counter to the suggestion of MPEP §811 which advises that such requirements be made in the first action whenever possible.

Second, the present Office Action provides absolutely no rational or reason for making the election requirement. In contravention of MPEP §816, the Office Action offers absolutely no explanation as to how or why the species are distinct. See also MPEP §808, which notes that a mere conclusion is insufficient justification.

Third, the Office Action makes absolutely no argument that the required search would be unduly burdensome. In fact, clearly it would not be in so much as a search of all the claims has already been conducted for the first Office Action. Moreover, it is well accepted that an application may claim a reasonable number of species. See MPEP §806.04(a). In short, the Office Action has not established a reason for requiring the election in accordance with the mandates of MPEP §808.02, i.e., that the species have separate classifications, separate status within the art, or different fields of search.

Accordingly, for the reasons stated above, it is submitted that the election requirement fails to meet the minimum requirements and has hereby been traversed.

Listing of Claims Readable on Species 2

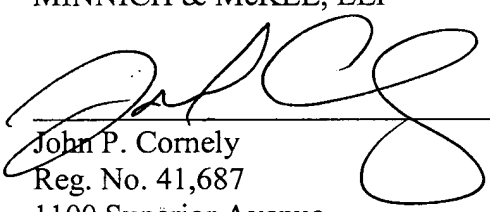
Applicant submits that all the claims (i.e., claims 1-20) are readable on Species 2, and accordingly they should all be examined together.

Conclusion

Applicant contends that the foregoing election is fully responsive to the outstanding requirements. Examination of all the claims in the application is respectfully requested, and an early notification of allowability is earnestly solicited. If a telephone call would help to resolve any further issues, the Examiner is invited to call the undersigned.

Respectfully submitted,

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